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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,780	07/13/2000	Yumiko Hidaka	35.C11725 DI	5089
5514	7590	11/18/2003	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			SEALEY, LANCE W	
			ART UNIT	PAPER NUMBER
			2671	
DATE MAILED: 11/18/2003				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/615,780	HIDAKA ET AL.
	Examiner	Art Unit
	Lance W. Sealey	2671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 27 June 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 12-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 12-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. 08/724,481.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u>	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of 35 U.S.C. 102(b) which forms the basis for all novelty rejections set forth in this Office action:

A person shall be entitled to a patent unless—

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohtsuka et al. (“Ohtsuka,” U.S. Pat. No. 5,748,858).

3. Ohtsuka, in disclosing a color processor, also discloses, with respect to claim 12, an image processing apparatus comprising:

- input means (image input unit 10, FIG.1, and col.4, ll.36-39) for inputting input image data from a source device (image editor 12, FIG.1, and col.4, ll.40-41) having a function for adjusting an image processing condition on a basis of an instruction of a user;
- converting means for converting the input image data to device independent image data by using a profile of the source device (printing/common color space conversion profile group, col.6, ll.6-12); and
- setting means (image processor 16, FIG.1) for setting a standard condition corresponding to the profile as an image processing condition of the source device (the “standard condition being set” is: Will the color image data (which comes from the source device)

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be converted into a gamut mapping and appearance corresponding to an image monitor device with a gamut mapping/appearance table generated by a gamut mapping/appearance generator and the color image data converted into color image data in a device color space of an image output unit with a device color space conversion table generated by a device color space conversion table generator for thereby predicting a color image which will be reproduced by the image output unit (Abstract, second and third sentences), or will the YMCK halftone dot percentage data from the image editor be corrected using dot gain correcting coefficients established respectively for tristimulus values X, Y, Z and then converted into color image data in the XYZ color space with a common color space conversion table?" (Abstract, fourth sentence)),

- wherein, under the standard condition set by said setting means, said converting means converts by using the profile of the source device the input image data processing by the source device (profiles used for conversion in col.6, ll.5-21; input image comes in through the input image unit 10 and the image editor 12 before being converted in the image processor 16—see FIG.1 and col.4, ll.36-48).

4. Concerning claim 19, it is inherent that if means are disclosed, corresponding steps are disclosed.

5. Claim 20 discloses steps corresponding to claim 19 plus a recording medium to store programs to realize an image processing medium. Since Ohtsuka discloses programs 20, 22, 24

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and **26** in image processor **16** (FIG.1), it is inherent that at least one recording medium exists to store these programs.

6. Concerning claim 13, Ohtsuka discloses the standard condition stored in the profile (col.11, ll.22-32).

7. Regarding claim 14, Ohtsuka discloses the source device holding the standard condition (image editor **12** holds YMCK halftone dot percentage data, Abstract, first sentence).

8. With respect to claim 15, Ohtsuka discloses the standard condition corresponding to a condition used when the profile is prepared (image editor **12** supplies YMCK halftone dot percentage data to image processor **16** (col.12, ll.17-20). Image processor **16** has the gamut mapping/appearance LUT generator **22**, which prepares a profile. See col.11, ll.22-32.).

9. Concerning claim 16, Ohtsuka discloses the source device as a display device, and the image processing condition includes any one of conditions relating to gamma characteristic, contrast, brightness, color and temperature (YMCK halftone dot percentage data affects color).

10. Regarding claim 17, Ohtsuka discloses the converting means performing a color matching process corresponding to said source device (color matching takes into account YMCK halftone dot percentage data) and an image output device (image output unit **14A**, FIG.1, and col.6, 5-19), and wherein said converting means converts the device independent image data to image data for the image output device (col.6, ll.19-22) by using the profile of the image output device (col.6, ll.5-13), and further comprising:

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- output means for outputting the image data for the image output device (image output units **14A** and **14B**, FIG.1); and
- adjusting means for adjusting an image processing condition of the image output device to a standard condition corresponding to a profile of the image output device (gamut mapping/appearance LUT generator **22**, FIG.1).

11. With respect to claim 18, Ohtsuka discloses an image processing apparatus comprising:

- converting means for converting input image data by using an input data by using an input profile of a source device (printing/common/color space conversion group, FIG.2) and an output profile of an image output device (output device profile group, FIG.2);
- output means for outputting the converted image data to the image output device having a function for adjusting an image processing condition on behalf of a user; and
- setting means for setting a standard condition corresponding to the output profile as an image output condition of the image output device (gamut mapping/appearance LUT generator **22** lets user verify color and change it, if necessary, before it goes to output device. See col.11, ll.22-32.),
- wherein said output means processes the converted image data by using the standard condition set by said setting means (as stated in the rejection of claim 12,

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the Abstract, second through fourth sentences, establishes the standard condition of which of two processes will be selected. If the first of the two processes are selected (Abstract, second and third sentences), this element of claim 18 is fulfilled).

12. Concerning claim 21, it is inherent that if means are disclosed, corresponding steps are disclosed.

13. Claim 22 discloses steps corresponding to claim 21 plus a recording medium to store programs to realize an image processing medium. Since Ohtsuka discloses programs **20, 22, 24** and **26** in image processor **16** (FIG.1), it is inherent that at least one recording medium exists to store these programs.

14. Therefore, in view of the foregoing, claims 12-22 are rejected as being anticipated under 35 U.S.C. 102 by Ohtsuka.

***Response to Remarks***

15. Page 8 through the first paragraph of page 9 of the applicants' response reviews what is disclosed by the independent claims. The second paragraph of page 9 seems to suggest that the Ohtsuka invention is different from the claims as presently drafted: "...according to the present independent claims, the device setting is performed according to the profile, while the profile is generated according to the device setting in Ohtsuka."

16. There are at least three issues suggested by this statement of the applicants:

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(1) Is there a difference between the applicants' invention and Ohtsuka? Since the applicants articulate a difference which seems easy to understand, a difference probably exists, at least between what is disclosed in the applicants' specification and what is disclosed in the Ohtsuka specification, and that difference may lie in issue #2 below:

(2) When the applicants state that in their invention, "the device setting is performed according to the profile," do they mean the source device or the output device, and what kind of device setting is accomplished?

However, patentability of an invention is determined by what is disclosed in an invention's claims, and this brings us to issue #3 below:

(3) The clause added to claims 12, 19 and 20 reads:

wherein, under the standard condition set by said setting means, said converting means converts by using the profile of the source device the input image data processing by the source device.

This clause is unclear unless the word "processing" is changed to "processed" and commas are placed after the word "converts" and "data". When these changes are made for clarity, Ohtsuka discloses this clause, as articulated in the rejection of claim 12 above.

17. Accordingly, since all the claims are still rejected, **THIS ACTION IS MADE FINAL.** See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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20. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lance Sealey whose telephone number is (703) 305-0026. The examiner can normally be reached Monday-Friday from 7:00 am to 3:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman, can be reached on (703) 305-9798. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or the Customer Service Office at (703) 306-0377.



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